

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
 Petition of the Alliance for Public Technology)
 Requesting Issuance of Notice of Inquiry And) CCB/CPD 98-15
 Notice of Proposed Rulemaking to Implement) RM-9244
 Section 706 of the 1996 Telecommunications Act)
)

REPLY COMMENTS OF WORLDCOM, INC.

WorldCom, Inc. ("WorldCom"), by its attorneys, hereby files reply comments in response to initial comments concerning the petition filed by the Alliance for Public Technology ("APT") on February 18, 1998 in the above-captioned proceeding.

I. INTRODUCTION AND SUMMARY

In its initial comments, WorldCom urged the Commission to reject the APT petition because it seeks to give the ILECs free reign to provide "advanced telecommunications capability" without regard for critical safeguards mandated by the Act.¹ WorldCom showed that, contrary to APT's approach to the statute, it is APT and its ILEC sponsors which properly must bear the burden of proving that the Act permits -- indeed, requires -- the many forms of "relief" sought in the petition. WorldCom submits that APT's petition does not come close to meeting that considerable burden. Further, WorldCom showed how APT is not the unaffiliated, disinterested public interest group it portrays itself to be, but instead receives sponsorship and affiliation funding directly from the ILECs -- with a concomitant impact on APT's public policy positions on telecommunications issues.

¹ See WorldCom Comments at 2.

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II. THE APT PETITION MUST BE REJECTED

Nearly all unaffiliated parties oppose granting the specific proposals contained in APT's petition.² Consequently, WorldCom will limit its reply to the arguments raised by those commenters supporting some or all aspects of the petition.

A. APT's Views Should Be Discounted Because It Is An ILEC Front Group

As WorldCom demonstrated out in its initial comments, APT essentially is a front organization for the ILECs.³ It is not surprising, then, that the ILECs' comments are full of rave reviews for APT's petition. BellSouth applauds APT's "candid and thoughtful analysis,"⁴ while US West "completely supports" APT's "extremely relevant and accurate" petition, which "deserves the closest attention and action."⁵ USTA states that "APT has been a leader in raising the profile of this issue and should be commended for its efforts...."⁶ SBC echoes that APT's points are "extremely well-taken and eloquently made," but then goes further to tell the Commission point-blank that APT's views should be:

given additional weight when one considers the source -- APT, a public interest group that wants to see more innovative and widespread deployment of advanced telecommunications capabilities without regard to which carrier(s) or class of

² See Comments of Economic Strategy Institute; Comments of ALTS; Comments of TCG; Comments of Sprint; Comments of TRA; Comments of Intermedia; Comments of AT&T; Comments of MCI; Comments of LCI.

³ WorldCom Comments at 3-8.

⁴ BellSouth Comments at i.

⁵ US West Comments at 1, 2.

⁶ USTA Comments at 2.

carrier(s) accomplish that objective.⁷

This is, of course, utterly false. APT's petition plainly gives disproportionate and undue weight to the ILECs' views. Indeed, as Sprint points out, APT's one-sided petition "looks like a wish list for the RBOC industry," which is not surprising given that APT "has been heavily funded by the RBOCs."⁸

Further, USTA finds it necessary to lecture the Commission on the dangers of giving serious consideration to the views of parties that do not represent the public interest:

The Commission should also not permit its proceedings to be used as a basis for delay by those parties who parade before the Commission under the public interest umbrella, with the ulterior motive of seeking protection from competition at the expense of consumers who are the intended beneficiaries of competition.⁹

WorldCom wholeheartedly agrees with USTA's rare insight, and accordingly urges APT to withdraw its petition immediately.

Another group with close connections to APT and the ILEC community also openly lauds the petition. Keep America Connected, which supports APT's call to "remove barriers to investment in the local network,"¹⁰ indicates in a footnote that it is a coalition of many groups that includes "local phone companies,"¹¹ and lists as members USTA, the

⁷ SBC Comments at 3.

⁸ Sprint Comments at 5.

⁹ USTA Comments at 10.

¹⁰ Keep America Connected Comments at 3.

¹¹ Keep America Connected Comments at 2 n.1.

Communications Workers of America, and -- surprise -- the Alliance for Public Technology.¹² The coalition includes a Crandall/Jackson report asking the Commission, in the case of the ILECs' provision of advanced telecommunications capability, to (1) remove the "specter of price regulation," (2) forbear from requiring compliance with universal service principles, such as the mandate for geographic ubiquity, (3) disavow unbundling requirements, and (4) allow below-line accounting treatment.¹³ From WorldCom's perspective, these proposals appear designed only to keep America connected exclusively to the ILECs for as long as possible.

B. Section 706 Is Not An Unbounded Grant of Authority

The ILECs join APT in taking an exceedingly broad view of the import of Section 706, especially its reference to forbearance. Ameritech claims that the forbearance authority referenced in Section 706, unlike the general authority established in Section 10, essentially has no limitations.¹⁴ US West also asserts that Section 706 and Section 10 are independent grants of authority, and that Section 706 "deals with instances where regulation is affirmatively harming the public whether the particular market is competitive or not."¹⁵ US West also believes that Section 706 gives the FCC carte blanche authority to preempt state regulation.¹⁶

In its initial comments, WorldCom described the many reasons why Section 706

¹² Id. at n.2.

¹³ Keep America Connected Comments, Crandall-Jackson Report at 8-9.

¹⁴ Ameritech Comments at 3 n.9.

¹⁵ US West Comments at 5.

¹⁶ US West Comments at 10.

is not nearly as all-encompassing as the ILECs would have it be.¹⁷ In particular, the forbearance power cited in Section 706 is not an independent grant of authority at all, but relies instead on the authority (and limitations) of Section 10. In turn, as ALTS also recognizes, Section 10 expressly prohibits the Commission from forbearing from enforcing Section 251(c) until that provision has been fully implemented.¹⁸ This means, at a minimum, that the interconnection, unbundling, and resale requirements all must be preserved intact in any exercise of the forbearance that is authorized by Section 10, and merely referenced in Section 706. The ILECs' other far-reaching interpretations of Section 706 have no basis in the text or legislative history of the Act.

C. The Commission's Competition Policies Are Not At Issue

As explained above, the Commission has no authority to eliminate the local competition provisions of Section 251(c). Nonetheless, the ILECs seize upon Section 706 as their vehicle to attack the Commission's local competition policies. For example, BellSouth asserts that the FCC's interconnection order, which is "fatally flawed and a public policy failure," also is inconsistent with Section 706 because it erects new "investment barriers."¹⁹ In an attempt to make APT's proposals actually look somewhat reasonable by contrast, SBC insists that the Commission should simply abandon its view of Section 251(c)(3) and TELRIC

¹⁷ WorldCom Comments at 9-12.

¹⁸ ALTS Comments at 5.

¹⁹ BellSouth Comments at i, 3-5.

cost principles immediately.²⁰ BellSouth insists that the FCC should not allow MCI/WorldCom to compete with the ILECs using the ILECs' facilities.²¹ All of these claims overlook the simple fact that, as the Commission already has determined, the 1996 Act gives CLECs these very same interconnection rights.

Although US West agrees with APT that new and advanced service facilities are not essential to new entrants,²² WorldCom has already indicated that it requires access to advanced telecommunications capabilities from the ILECs.²³ Further, ALTS points out that the Commission has already concluded that CLECs are entitled to these ILEC capabilities, and notes that numerous CLECs have asked for (but often not received) such capabilities from the ILECs.²⁴

In an attempt to bolster their arguments, the ILECs give them surface appeal by dressing them up with pleasing mantras about "competition" and "market-based" policies and "deregulation." Ameritech's comments provide the best example, repeatedly imploring the Commission to withdraw its competitive safeguards and simply "let the market decide."²⁵ Of course, market-based approaches are illusory, and inherently dangerous, without an actual competitive market. Unlike the ILECs, WorldCom has developed and grown wholly within the

²⁰ SBC Comments at 7.

²¹ BellSouth Comments at 9.

²² US West Comments at 5.

²³ WorldCom Comments at 15.

²⁴ ALTS Comments at 6-7.

²⁵ Ameritech Comments at 1-2.

competitive telecommunications market. While the ILECs may try to seize the rhetorical high ground by preaching about market-based regulatory policies, it is no difficult task for monopolies to mouth the virtues of the free and unfettered local exchange market while they themselves are the main roadblock to attaining such market freedom.

WorldCom respectfully disagrees with ALTS' view that APT's proposal to phase out the UNE/TELRIC requirement as it applies to ILEC switches "deserves comment and consideration."²⁶ ALTS should know better. As TCG points out, Section 251(c) "contains no temporal component."²⁷ Further, the Commission should not, and by law cannot, be in the position of sunseting statutory requirements that have not yet been implemented.

D. The ILECs Are Not Needed to Save the World

Several commenters point out that the APT petition embraces the fallacy that the ILECs are the only entities capable of, and interested in, providing advanced telecommunications capabilities to the American consumer. USTA takes this dubious viewpoint even a step beyond by insisting that, without adopting a "hands-off" regulatory approach to the ILECs' provision of data services and facilities, all is lost. USTA's comments explain that the ILECs' absence from the information revolution not only "may well spell the end to technological and economic expansion that has fueled the unprecedented growth in the American economy," but also will "endanger this nation's future health, education, and general welfare."²⁸ This is absurd. Over

²⁶ ALTS Comments at 12.

²⁷ TCG Comments at 4.

²⁸ USTA Comments at 19.

the past several years, the information services industry has grown and flourished, largely without the ILECs' involvement (indeed, one could posit a direct correlation between the two). In contrast, the ILECs' own spotty record does not inspire confidence, from their incredibly slow deployment of ISDN to their current catch-up game on xDSL. This is the same industry, after all, that would rather view serious congestion problems in their local networks as an excuse for recovering further bloated access charge revenues from ESPs, than actually remedy the problems.

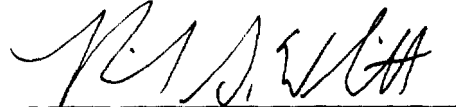
USTA's doomsday scenario to the contrary, WorldCom believes that a far more real endangerment to the future growth and success of this country's telecommunications sector is the ILECs' continuing active resistance to any legitimate action or policy that would further the prospects of local competition. In the Section 706 proceedings, the ILECs appear to be using the vague promise of developing and upgrading their local infrastructure as a hostage to their same old demands about removing federal and state regulation. The Commission should not allow the ILECs to get away with it. The ILECs' stubborn hold over the "last mile" to the consumer must be broken, once and for all, so that new, innovative companies can compete to provide the advanced telecommunications services that American consumers want and deserve. Only at that point will the ILECs finally understand, and receive, the "market-based" competitive incentives they so obviously need.

III. CONCLUSION

The Commission should dismiss the unsupported APT petition. The relief sought by APT would directly violate existing law and undermine the FCC's local competition policies.

Respectfully submitted,

WORLDCOM, INC.

A handwritten signature in black ink, appearing to read 'C. R. Sloan', written over a horizontal line.

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May 4, 1998

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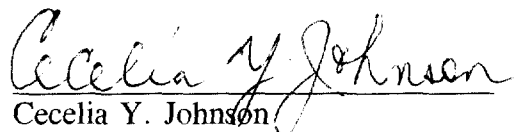
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